

The Hon. John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIC SHIBLEY,

Defendant.

No. CR20-174-JCC

~~[PROPOSED]~~

**FINAL ORDER OF FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for a Final Order of Forfeiture for the following property (collectively, the "Subject Property"):

1. \$49,500.86 in U.S. funds, seized on or about May 29, 2020, from Navy Federal Credit Union account #\*\*\*\*\*7528, held in the name of Eric R. Shibley MD PLLC;
2. \$100,000.00 in U.S. funds, seized on or about May 29, 2020, from Wells Fargo account #\*\*\*\*\*2378, held in the name of ES1 LLC;
3. \$804,816.63 in U.S. funds, seized on or about May 27, 2020, from Wells Fargo account #\*\*\*\*\*3536, held in the name of The A Team Holdings LLC;
4. \$114,440.00 in U.S. funds, seized on or about June 30, 2020, from Verity Credit Union account #\*\*\*5390, held in the name of Dituri Construction LLC; and
5. \$114,743.59 in U.S. funds, seized on or about June 30, 2020, from Verity Credit Union account #\*\*\*5320, held in the name of SS1 LLC.

1 The Court, having reviewed the United States' motion, as well as the other  
 2 pleadings and papers filed in this matter, HEREBY FINDS that entry of a Final Order of  
 3 Forfeiture is appropriate for the following reasons:

- 4 1. On November 18, 2021, Defendant Shibley was convicted of Wire Fraud, in  
 5 violation of 18 U.S.C. § 1343 and 2; Bank Fraud, in violation of 18 U.S.C.  
 6 §§ 1344(2) and 2; and Money Laundering, in violation of 18 U.S.C. §§  
 7 1957 and 2. The evidence at trial established that the Subject Property was  
 8 forfeitable, pursuant to 18 U.S.C. § 981(a)(1)(C), by way of 28 U.S.C.  
 9 § 2461(c), and 18 U.S.C. § 982(a)(1) – (2), as property that constitutes or is  
 10 traceable to proceeds of the Wire Fraud and Bank Fraud schemes or  
 11 property that was involved in the Money Laundering offenses. Dkt. Nos.  
 12 140, 144.
- 13 2. On December 17, 2021, the United States filed its Motion for Entry of a  
 14 Combined Preliminary Order of Forfeiture and Order of Forfeiture (the  
 15 “Combined Motion”). Dkt. No. 140. In the Combined Motion, the  
 16 United States moved for a preliminary order of forfeiture as to the Subject  
 17 Property, and a final order of forfeiture as to a sum of money in the amount  
 18 of \$254,199, reflecting the unrecovered proceeds of Defendant's fraud  
 19 schemes. Id. One of the entities that Defendant used to submit false and  
 20 fraudulent PPP and EIDL applications as part of his scheme to defraud  
 21 COVID-19 relief programs — ES1 LLC — attempted to intervene in the  
 22 criminal case regarding the \$100,000, discussed above; the United States  
 23 opposed ES1 LLC's attempt. Dkt. Nos. 142 - 143.
- 24 3. On January 21, 2022, the Court granted the Combined Motion and entered an  
 25 Order (the “Order”), finding the Subject Property forfeitable pursuant to 18  
 26 U.S.C. § 981(a)(1)(C), by way of 28 U.S.C. § 2461(c), and 18 U.S.C.  
 27 § 982(a)(1) – (2), and forfeiting the Defendant's interest in it. Dkt. No. 144.  
 28 The Court overruled ES1 LLC's objection to the preliminary forfeiture of

the \$100,000. Id. The Court also granted the United States’ request for the forfeiture of a sum of money reflecting the unrecovered proceeds of the Defendant’s fraud schemes. Id. The forfeiture of the sum of money is personal to the Defendant and is not at issue in the United States’ Motion for Final Order of Forfeiture of the above-identified property. Id.

4. On March 8, 2022, the Court sentenced Defendant to 48-months of imprisonment, to be followed by three years of supervised release. Dkt. Nos. 151 – 152, 150. The Court ordered Defendant to pay restitution of \$1,438,000.00 to his victims and ordered the forfeiture of Defendant’s interest in the Subject Property and the sum of money, as previously held in the Order. Dkt. Nos. 152, 159.
5. The Defendant appealed his conviction and sentence to the Ninth Circuit Court of Appeals. Dkt. No 155.
6. On June 10, 2022, Defendant filed a Motion for Clarification of Restitution Credit for Forfeited Funds or for Indicative Ruling, requesting the Court authorize credit against his restitution order for forfeited property (the “Motion”). Dkt. No. 170. After considering the opposition of the United States and the Defendant’s Reply, Dkt. Nos. 173 – 174, the Court held that it lacked jurisdiction to adjudicate the Motion due to the Defendant’s pending appeal of his conviction and sentence. Dkt. No. 175. The Court also issued an indicative ruling that if the Ninth Circuit were to remand the matter to the Court, then the Court would deny the Motion to credit the forfeited funds toward the restitution order. Id. The Defendant also appealed this Order. Dkt. No. 176.
7. The United States published notice of the pending forfeiture, as instructed by the Court and required by 21 U.S.C. § 853(n)(1) and Federal Rule of Criminal Procedure (“Fed. R. Crim. P.”) 32.2(b)(6)(C). Dkt. No. 147. The United States also sent notice of the pending forfeiture directly to six

1 identified potential claimants – one individual and five businesses  
2 associated with Defendant – at their last known addresses and, where  
3 applicable, by sending notice to counsel. Declaration of Assistant U.S.  
4 Attorney Krista K. Bush in Support of Motion for Final Order of Forfeiture,  
5 ¶ 2, Exhibits A, B, C, D, E, & F;

6 8. The time for filing third-party petitions has expired and none were filed;

7 9. Neither the Defendant nor the United States have sought to stay enforcement of  
8 the sentence.

9 NOW, THEREFORE, THE COURT ORDERS:

10 1. No right, title, or interest in the Subject Property exists in any party other  
11 than the United States;

12 2. The Subject Property is fully and finally condemned and forfeited, in its  
13 entirety, to the United States; and

14 3. The United States Department of Justice, and/or their representatives, are  
15 authorized to dispose of the Subject Property in accordance with the law.

16  
17 IT IS SO ORDERED.

18  
19 DATED this 30th day of September 2022.

20  
21  
22  
23 

John C. Coughenour

24 UNITED STATES DISTRICT JUDGE

1 Presented by:

2  
3 s/Krista K. Bush

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